

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

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PERNOD RICARD USA, LLC,

Plaintiff,

v.

BACARDI U.S.A., INC.,

Defendant.

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C.A. No. 06-505 (SLR)

**DEFENDANT'S MOTION TO DISMISS UNDER RULE 12(b)(6)**

Defendant Bacardi U.S.A., Inc. ("Bacardi"), by and through its undersigned attorneys and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, hereby moves this Court for an order dismissing Count II of the Complaint in above-captioned action. The grounds for this motion are set forth in Bacardi's Opening Brief in Support of Defendant's Motion to Dismiss under Rule 12(b)(6), filed contemporaneously herewith.

Respectfully submitted,

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Dated: September 22, 2006



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**UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE**

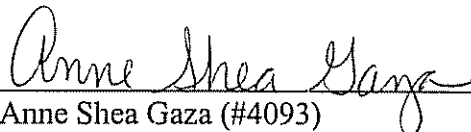
**CERTIFICATE OF SERVICE**

I hereby certify that on September 22, 2006, I caused to be served by hand delivery the foregoing document and electronically filed the same with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following:

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I hereby certify that on September 22, 2006, I have sent by Federal Express the foregoing document to the following non-registered participants:

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